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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,716	06/26/2006	Frantz D. Stanford	124588.98149	7941
26710 7590 07/08/2008 QUARLES & BRADY LLP 411 E. WISCONSIN AVENUE SUITE 2040 MILWAUKEE, WI 53202-4497				
EXAMINER				
GIBSON, RANDY W				
ART UNIT		PAPER NUMBER		
2841				
MAIL DATE		DELIVERY MODE		
07/08/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,716

Applicant(s)

STANFORD, FRANTZ D.

Examiner

Randy W. Gibson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 17 and 20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 5/7/07&9/16/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Objections

1. Claims 1, 10 and 19 are objected to because of the following informalities: use of the phrase "of the type" renders the claim indefinite. See *Ex parte Copenhaver*, 109 USPQ 118 (Bd. App. 1955); *Ex parte Attig*, 7 USPQ2d 1092 (Bd. Pat. App. & Inter. 1986); and, *MPEP* § 2173.05(b). In claims 10 & 19, the phrase "the spring" lacks positive antecedent basis. See *MPEP* § 2173.05(e). Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Shepley (US # 3,126,069). Shepley has a position indicator consisting of a piston (31) in a cylinder (32), a hydraulic linkage (36), and an indicator (38). With respect to the claims that recite a "cable", Shepley discloses an embodiment with a cable (Col. 3, lines 38-57). The functional language in the preamble of claim 1 that this is a "lift measurement system" is deemed to carry no patentable weight since it seems to define no structure. See *MPEP* § 2111.02.

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3. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Mickelson et al (US # 4,098,221). Mickelson discloses a lift measurement system (Abs.) consisting of a position indicator (Fig. 4) consisting of a piston (61) in a cylinder (60), a hydraulic linkage (62), and an indicator (50) which consists of another cylinder (63) and a piston (58). With respect to the dependent claims that recite a "cable", Mickelson discloses an embodiment with a cable (Col. 3, lines 8-14).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 15, 16, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider et al (US # 5,890,721) in view of Nakanishi et al (US # 4,894,924). Schneider disclose a support system for performing lift operations comprising first and second lifting systems, each of which includes a cylinder and a piston (Col. 4, lines 19-28). Schneider also discloses a level indicator to give an operator and the control system an indication of load indication, but it is not of the structure claimed. Nakanishi disclose that it is known to construct level indicators by attaching fluid filled cylinders near the supports of a structure. Nakanishi further disclose that these cylinders each have a piston and a fluid linkage between them. It would have

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been obvious to use the level indicating system of Nakanishi with the hydraulic jack lifting system of Schneider motivated by its are recognized functional equivalence.

Conclusion

5. Claims 17 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (571) 272-2103. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean A. Reichard can be reached on (571) 272-1984. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randy W. Gibson/
Primary Examiner, Art Unit 2841

Randy W. Gibson
Primary Examiner
Art Unit 2841